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Attorneys for Defendants InComm Financial Services, Inc. and Pathward, N.A.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEVIN SMITH

Plaintiff,

VS.

INCOMM FINANCIAL SERVICES, INC. AND
PATHWARD, N.A.

Defendants

Case No. 5:23-CV-4687-BF

**STIPULATED REQUEST FOR
ORDER ADJOURNING DEADLINES
FOR CASE MANAGEMENT
STATEMENT AND CASE
MANAGEMENT CONFERENCE;
[PROPOSED] ORDER**

Judge: Hon. Beth Labson Freeman

Date: April 4, 2024
Time: TBD
Place: Courtroom 3

STIP. REQUEST FOR ORDER ADJOURNING DEADLINES FOR CASE MANAGEMENT STATEMENT AND CASE MANAGEMENT CONFERENCE (Case No. 5:23-CV-4687-BF)

1 Pursuant to Local Rules 6-1(b), 6-2, and 7-12 of the Local Rules of the United States District
2 Court for the Northern District of California, Plaintiff Kevin Smith (“Plaintiff”) and Defendants
3 InComm Financial Services, Inc. and Pathward, N.A. (“Defendants”), through their counsel jointly
4 request an extension of the deadline to file their joint Case Management Statement and an
5 adjournment of the Case Management Conference currently schedule for April 4, 2024.

6 WHEREAS, Plaintiff filed his Complaint, Dkt. 1, on September 12, 2023;

7 WHEREAS, Plaintiff and Defendants entered a stipulation, Dkt. 9, on November 16, 2023
8 to extend the time for Defendants to respond to the Complaint to December 15, 2023;

9 WHEREAS, Defendants filed their motion to dismiss, Dkt. 22, on December 15, 2023, with
10 a hearing date of April 18, 2024;

11 WHEREAS, the Court set a Case Management Conference date of April 4, 2024, with the
12 parties’ joint Case Management Statement to be due on March 28, 2024, Dkt. 15;

13 WHEREAS, Plaintiff advised Defendants in March 2024 that he intended to seek leave to
14 file an Amended Complaint, in lieu of filing an opposition to Defendants’ initial motion to dismiss;

15 WHEREAS, the parties stipulated to, Dkt. 30, and the Court approved, Dkt. 31, a revised
16 schedule, providing for Plaintiff to file an Amended Complaint by March 21, 2024, with
17 Defendants’ responses to be filed by May 20, 2024;

18 WHEREAS, the March 28 Case Management Statement deadline remains in effect;

19 WHEREAS, the current schedule would thus require the parties to file the Case Management
20 Statement only one week after the filing of the Amended Complaint, and well before Defendants
21 have filed any response to the Amended Complaint;

22 WHEREAS, Defendants have suggested, and Plaintiff has agreed, that postponing the Case
23 Management Statement filing deadline and Case Management Conference date until the Amended
24 Complaint and Defendants’ responses are filed will facilitate a more productive discussion of the
25 issues to be addressed by the Case Management Statement between counsel and a more effective
26 presentation of any issues to be resolved to the Court;

27
28 STIP. REQUEST FOR ORDER ADJOURNING DEADLINES FOR CASE MANAGEMENT
STATEMENT AND CASE MANAGEMENT CONFERENCE (Case No. 5:23-CV-4687-BF)

NOW, THEREFORE, IT IS HEREBY STIPULATED AND REQUESTED by and between the parties, through their respective attorneys of record, that the Court enter an Order providing that:

- The Case Management Conference shall be set (i) for the same day as the hearing on any dispositive motion(s) filed by Defendant(s) regarding the Amended Complaint; or (ii) if no such motion is filed, for June 6, 2024, or any date thereafter that is convenient for the Court; and
 - The Case Management Statement shall be due one week before the Case Management Conference.

DATED: March 19, 2024

/s/ Henry J. Ricardo

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Attorneys for Defendants

DATED: March 19, 2024

/s/ John D. Blythin

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Attorneys for Plaintiff

SIGNATURE ATTESTATION

I hereby attest that I have obtained the concurrence of John D. Blythin, counsel for Plaintiff, for the filing of this Stipulated Request.

/s/ Henry J. Ricardo
Henry J. Ricardo

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED

The Honorable Beth Freeman
United States District Judge

DATED:

STIP. REQUEST FOR ORDER ADJOURNING DEADLINES FOR CASE MANAGEMENT STATEMENT AND CASE MANAGEMENT CONFERENCE (Case No. 5:23-CV-4687-BF)